

House Bill 1451 (AS PASSED HOUSE AND SENATE)

By: Representatives Sheldon of the 105th, Knox of the 24th, Walker of the 107th, Byrd of the 20th, Channell of the 116th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Article 7A of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to the Long-term Care Partnership Program, so as to revise certain definitions; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 7A of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to the Long-term Care Partnership Program, is amended by striking Code Section 49-4-161, relating to definitions, and inserting in lieu thereof a new Code Section 49-4-161 to read as follows:

"49-4-161.

As used in this article, the term:

(1) 'Asset disregard' means ~~the total assets an individual owns and may retain upon application for the,~~ with regard to state Medicaid program and still qualify for benefits, the disregard of any assets or resources in an amount equal to the insurance benefit payments that are made to or on behalf of an if the individual:

(A) ~~Is who is a beneficiary under of a Georgia Long-Term Care Partnership Program approved policy; and~~

(B) ~~Has exhausted the benefits of such policy or has diminished such assets below anticipated remaining policy benefits~~ a qualified long-term care insurance partnership policy.

(2) 'Commissioner' means the Commissioner of Insurance.

(2)(3) 'Department' means the Department of Community Health.

~~(3) (4) 'Georgia Long-Term~~ Qualified Long-term Care Partnership Program approved policy' means a long-term care insurance policy that ~~is approved by the Commissioner of~~

Insurance and is provided through state approved long-term care insurers through the Georgia Long-Term Care Partnership Program meets the model regulations and requirements of the National Association of Insurance Commissioners' long-term care insurance model regulation and long-term care insurance model act as specified in 42 U.S.C. 1917(b) and Section 6021 of the Federal Deficit Reduction Act of 2005 and the Commissioner certifies such policy as meeting these requirements.

(4) (5) 'State Medicaid program' means the medical assistance program established in this state under Title XIX of the federal Social Security Act.

(6) 'State plan amendment' means a state Medicaid plan amendment made to the federal Department of Health and Human Services that provides for the disregard of any assets or resources in an amount equal to the insurance benefit payments that are made to or on behalf of an individual who is a beneficiary under a qualified long-term care insurance partnership policy."

SECTION 2.

Said article is further amended by striking Code Section 49-4-162, relating to the Georgia Long-term Care Partnership Program, and inserting in lieu thereof a new Code Section 49-4-162 to read as follows:

"49-4-162.

(a) ~~There~~ In accordance with Section 6021 of the Federal Deficit Reduction Act of 2005, ~~there~~ is established the Georgia ~~Long-Term~~ Long-term Care Partnership Program which shall be administered by the Department of Community Health, with the assistance of the Commissioner of Insurance and the Department of Human Resources, and which shall be for the following purposes:

(1) To provide incentives for individuals to insure against the costs of providing for their long-term care needs;

(2) To provide a mechanism for individuals to qualify for coverage of the cost of their long-term care needs under the state Medicaid program without first being required to substantially exhaust their resources;

(3) To provide counseling services through the Division of Aging Services of the Department of Human Resources to individuals in planning of their long-term care needs; and

(4) To alleviate the financial burden on the state's Medicaid program by encouraging the pursuit of private initiatives.

(b) Upon the exhaustion of benefits or upon the diminishment of assets below the anticipated remaining benefits under a Georgia ~~Long-Term~~ Qualified Long-term Care

Partnership Program approved policy, certain assets of an individual, as provided in subsection (c) of this Code section, shall not be considered when determining any of the following:

(1) Medicaid eligibility;

(2) The amount of any Medicaid payment; and

(3) Any subsequent recovery by the state of a payment for medical services.

(c) ~~The department shall; amend the state Medicaid program to allow for asset disregard. The department shall provide for asset disregard by counting insurance benefits paid for covered services under the Georgia Long-Term Care Partnership Program for purchasers of a Georgia Long-Term Care Partnership Program approved policy toward asset disregard~~

(1) Within 180 days of the effective date of this Code section, make application to the federal Department of Health and Human Services for a state plan amendment to establish that the assets an individual owns and may retain under Medicaid and still qualify for benefits under Medicaid at the time the individual applies for benefits is increased dollar for dollar for each dollar paid out under the individual's long-term care insurance policy if the individual is the beneficiary of a qualified long-term care insurance partnership policy purchased through the Georgia Long-term Care Partnership Program; and

(2) Provide information and technical assistance to the Commissioner to assure that any individual who sells a qualified long-term care insurance partnership policy receives training and demonstrates evidence of an understanding of such policies and how they relate to other public and private coverage of long-term care."

SECTION 3.

Said article is further amended by striking Code Section 49-4-163, relating to eligibility for asset disregard, and inserting in lieu thereof a new Code Section 49-4-163 to read as follows:

"49-4-163.

(a) An individual who is a beneficiary of a Georgia ~~Long-Term~~ Qualified Long-term Care Partnership Program approved policy is eligible for assistance under the state Medicaid program using asset disregard pursuant to the provisions of subsection (c) of Code Section 49-4-162.

(b) If the Georgia ~~Long-Term~~ Long-term Care Partnership Program is discontinued, an individual who purchased a Georgia ~~Long-Term~~ Qualified Long-term Care Partnership Program approved policy prior to the date the program was discontinued shall be eligible to receive asset disregard if allowed as provided by Title VI, Section 6021 of the Federal Deficit Reduction Act of 2005.

(c) The department may enter into reciprocal agreements with other states to extend the asset disregard to residents of the state who purchase long-term care policies in another state which has asset disregard provisions as established under this article as provided by Title VI, Section 6021 of the Federal Deficit Reduction Act of 2005."

SECTION 4.

Said article is further amended by striking Code Section 49-4-164, relating to rules and regulations, and inserting in lieu thereof a new Code Section 49-4-164 to read as follows:

"49-4-164.

(a) The Commissioner shall:

(1) Develop requirements to ensure that any individual who sells a qualified long-term care insurance partnership policy receives training and demonstrates evidence of an understanding of such policies and how they relate to other public and private coverage of long-term care; and

(2) Not impose any requirement affecting the terms or benefits of qualified long-term care partnership policies unless the Commissioner imposes such a requirement on all long-term care policies sold in this state without regard to whether the policy is covered under the partnership or is offered in connection with such partnership.

(b) The department and the Commissioner of Insurance are authorized to promulgate rules and regulations to implement and administer the provisions of this article.

(c) The issuers of qualified long-term care partnership policies in this state shall provide regular reports to both the Secretary of the Department of Health and Human Services in accordance with federal law and regulations and to the department and the Commissioner as provided in Section 6021 of the Federal Deficit Reduction Act of 2005."

SECTION 5.

Said article is further amended by striking Code Section 49-4-165, relating to notice to consumers, and inserting in lieu thereof a new Code Section 49-4-165 to read as follows:

"49-4-165.

(a) A qualified long-term care insurance partnership policy ~~issued after the effective date of this article~~ shall contain a summary notice to the consumer in plain language on the current law pertaining to asset disregard and asset tests.

(b) The notice to the consumer under subsection (a) of this Code section shall be developed by the Commissioner of Insurance."

SECTION 6.

1 Said article is further amended by striking Code Section 49-4-166, relating to effective date,
2 and inserting in lieu thereof a new Code Section 49-4-166 to read as follows:

3 "49-4-166.

4 ~~The provisions of this article shall become effective 60 days after the effective date of the~~
5 ~~repeal of the restrictions to asset protection contained in the federal Omnibus Budget~~
6 ~~Reconciliation Act of 1993, Public Law 103-66, 107 Stat. 312~~ Reserved."

7 **SECTION 7.**

8 This Act shall become effective upon its approval by the Governor or upon its becoming law
9 without such approval.

10 **SECTION 8.**

11 All laws and parts of laws in conflict with this Act are repealed.